

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

**ALBERT EVANS
ADC #137248**

PLAINTIFF

v.

Case No. 4:20-cv-00405-KGB-JJV

**MELANIE DEBORAH FOSTER JONES,
Doctor, Wrightsville Unit, ADC; *et al.***

DEFENDANTS

ORDER

Before the Court are Proposed Findings and Recommendations submitted by United States Magistrate Judge Joe J. Volpe on February 25, 2021, and March 8, 2021 (Dkt. Nos. 64, 66). Plaintiff Albert Evans filed objections to the February 25, 2021, Proposed Findings and Recommendations (Dkt. No. 65). The time for filing objections to the March 8, 2021, Proposed Findings and Recommendations has passed, and Mr. Evans did not file objections. The Court rules as follows.

I. February 5, 2021, Proposed Findings and Recommendations

The Court has reviewed the Proposed Findings and Recommendations submitted by Judge Volpe on February 25, 2021 (Dkt. No. 64). Mr. Evans filed objections to the Proposed Findings and Recommendations (Dkt. No. 65). After careful consideration of the Proposed Findings and Recommendations and the objections, as well as a *de novo* review of the record, the Court adopts the Proposed Findings and Recommendations as this Court's findings in all respects (Dkt. No. 64).

In his objections, Mr. Evans asserts that he did not name separate defendant Jorge Dominicus in his grievances because he was locked in a cell in the infirmary from December 31, 2017, to March 14, 2018, with no access to any library or information regarding defendants (Dkt. No. 65 at 2–3). As Judge Volpe noted in the Proposed Findings and Recommendations, Mr. Evans

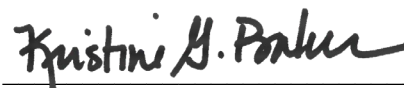
did not name Mr. Dominicis, refer to him by title, or raise the policy and practice claim he is attempting to bring against him in this lawsuit (Dkt. No. 64, at 5). Mr. Evans further asserts that he identified separate defendant Melanie Jones in his grievances because she is a doctor at the Wrightsville Unit (Dkt. No. 65., at 2). Mr. Evans does not argue, and the record does not reflect, that he properly followed the applicable exhaustion procedure.

Accordingly, the Court grants Mr. Dominicis and Dr. Jones' motion for partial summary judgment (Dkt. No. 58). The Court dismisses without prejudice Mr. Evans' claims against Mr. Dominicis. The Court determines that Mr. Evans may proceed on his claims against Dr. Jones as exhausted in WR-19-108, and the Court dismisses without prejudice Mr. Evans' remaining claims against Dr. Jones. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order would not be taken in good faith.

II. March 8, 2021, Proposed Findings and Recommendations

The Court has also reviewed the Proposed Findings and Recommendations submitted by Judge Volpe on March 8, 2021 (Dkt. No. 66). No objections have been filed, and the time to file objections has passed. After careful review, the Court adopts the Proposed Findings and Recommendations as this Court's findings in all respects (Dkt. No. 66). Accordingly, the Court grants separate defendants Rory Griffin and George Wilson's motion for summary judgment and dismisses without prejudice Mr. Evans' claims against them (Dkt. No. 61). The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order would not be taken in good faith.

It is so ordered this 21st day of September, 2021.



Kristine G. Baker
United States District Judge